

REMARKS

This is in response to the Office Action mailed on September 8, 2006, in which claims 1, 5-10, 12-18, 23 and 25-29 were rejected, claims 19-22 were allowed, and claims 30-33 were withdrawn.

Status of Office Action

The Office Action Summary lists the Status of the action as non-final (2b); however, the Detailed Action states on page 10, under Conclusion, that the action is made final.

In a phone conversation on September 20, 2006 between Examiner Rowan and Alison Sachs of Kinney & Lange, Examiner Rowan stated that the Office Action is final. Applicant is replying to this final action within two months of the mailing date and thus is within the shortened statutory period for reply.

Allowed claims

Applicant acknowledges the allowance of claims 19-22.

Withdrawn claims

Claims 30-33 were withdrawn from consideration as being directed to a non-elected invention. With this amendment, claims 30-33 are canceled without prejudice such that Applicant reserves the right to pursue these claims in a divisional application.

Claim Rejections under 35 U.S.C. § 103

Claims 1, 5-7, 12, 16-17 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh et al. (U.S. Patent Application 2002/0112395 A1).

With this amendment, claim 1 requires a pest removal device having a generally circular main body formed of a compressible foam and having a substantially uniform thickness, a circumference, and a diameter of approximately 1 inch. Marsh does not disclose a pest removal

device comprising a generally circular main body having a diameter of approximately 1 inch. Because Marsh fails to teach or suggest all the limitations of claim 1, claim 1 is patentable over Marsh.

Claims 5-7 depend from claim 1 and are allowable therewith.

Claim 12, as amended, requires a pest removal device comprising a main body that is generally circular and having a length, a width, and a circumference, wherein the length and the width of the main body are approximately equal, forming a circle having a diameter of approximately 1 inch. Moreover, amended claim 12 requires that the pest removal device comprise a release tab extending from the circumference of the main body, and having a length parallel to the main body length and less than the main body length and a width parallel to the main body width and less than the main body width, wherein the length of the release tab is approximately 0.125 inches.

As stated above in reference to claim 1, Marsh does not disclose a pest removal device comprising a generally circular main body having a length and a width that are approximately equal to form a circle having a diameter of approximately 1 inch. Further, Marsh does not disclose a release tab extending from the circumference of the main body and having a length of approximately 0.125 inches.

Since Marsh fails to teach or suggest these claim limitations of claim 12, claim 12 is patentable over Marsh. Claims 16-17 depend from claim 12 and are allowable therewith.

Claim 23, as amended, requires a pest removal device comprising a generally circular substrate having a first side, a second side, and a diameter of approximately 1 inch. As stated above, Marsh does not disclose a pest removal device having a generally circular substrate with a diameter of approximately 1 inch.

Moreover, claim 23 includes means plus function elements, including means for securing the pest to the first side of the substrate by adhering the substrate to the body surface so that

the substrate covers and conforms to the body surface and the pest to completely surround and enclose the pest, and means for causing the pest to release itself from the surface. As also detailed in the previous Amendment filed on June 20, 2006, Applicant continues to assert that the Marsh device does not perform either of these functions. The Marsh device does not conform to the body surface, but rather is placed above the pest and used in a tweezer-like manner to grasp and pull the pest away from the point of attachment (see p. 1, ¶ 14). The Marsh device also does not cause the pest to release itself from the surface, as Marsh discloses that the pest is grasped and pulled away from the surface. Thus, in Marsh the force exerted by the user causes the pest to be pulled out of its point of attachment. Applicant respectfully disagrees with the assertion on pages 4-5 of the Office Action that the Marsh device recites the means plus function elements required in claim 23.

Because Marsh does not teach or suggest all the claim limitations of claim 23, claim 23 is patentable over Marsh.

Claims 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh as applied to claim 1 and further in view of Grueling (U.S. Patent Number 2,264,875). Claims 10 and 15 depend respectively from claims 1 and 12, which are both allowable as described above. As such claims 10 and 15 are allowable therewith.

Claims 8, 9, 13-14 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh as applied to claim 1 and further in view of Nelson (U.S. Patent Number 6,185,862). Claims 8 and 9 depend from claim 1 and are allowable therewith. Claims 13 and 14 are canceled with this amendment. Claim 18 depends from claim 12 and is allowable therewith.

Claims 24-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh in view of Nelson.

- Claim 24 was canceled in the previous Amendment filed on June 20, 2006.

Claim 25 is a method of use claim which, as amended, requires providing a pest removal device comprising a main body having an engagement side covered with a skin-friendly pressure-sensitive adhesive layer, a backing side positioned opposite the engagement side, and a single release tab covered with a tab liner extending from the main body. Amended claim 25 requires that the main body is generally circular and has a diameter of approximately 1 inch. Neither Marsh nor Nelson discloses a pest removal device having a main body that is generally circular and has a diameter of approximately 1 inch.

As detailed in the Amendment filed on June 20, 2006, Applicant continues to assert that neither Marsh nor Nelson teaches or suggests a method for securing the pest removal device to the pest and the body surface to completely surround the pest for a time sufficient to cause the pest to release itself from the surface. Marsh does not teach or suggest securing the pest removal device to the pest and the body surface, but rather teaches placing the device directly above the pest to grasp and pull the pest away from the point of attachment. (See p. 1, ¶ 14.) Nelson teaches away from securing the pest removal device to the body surface, and teaches rather to secure the device to the pest only. (See col. 3, l. 66 - col. 4, l. 5.)

Since Marsh and Nelson fail to teach or suggest all the claim limitations of claim 25, claim 25 is patentable over Marsh in view of Nelson.

Claims 26-29 depend from claim 25 and are allowable therewith.

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CONCLUSION

Because the prior art of record does not teach, show or suggest all the claim limitations of claims 1, 5-10, 12, 15-23 and 25-29, these claims are now in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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